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Alain Delpuch

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SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV

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EXAMINER

MENDOZA, JUNIOR O

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/661,160	<b>Applicant(s)</b> DELPUCH ET AL.	
	<b>Examiner</b> JUNIOR O. MENDOZA	<b>Art Unit</b> 2423	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 and 41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1 and 23 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1 – 16, 18 – 31 and 41** are rejected under 35 U.S.C. 103(a) as being unpatentable over McKissick et al (Pub No US 2007/0124795) in view of Goodman et al (Patent No US 6,427,238) further in view of Fristoe et al (Patent No US 7,178,161) further in view of Danker et al (Pub No US 2003/0208777). Hereinafter, referenced as McKissick, Goodman, Fristoe and Danker, respectively.

Regarding **claim 1**, McKissick discloses a method to enable user-authoring of content within an interactive television environment (Paragraphs [0123] - [0124] fig. 17), said method comprising:

receiving television content from a first source system at a headend system, the television content to be presented to a user of a receiver system (Main facility [12] and

Television distribution facility [16] distribute program guide data and other information to television equipment [20] via communication path[24], paragraph [0055] fig 1A);

receiving authoring data, said authoring data comprising media information related to the television content (Figure 11 and paragraph [0109] disclose a authoring data related to a program, i.e. Jeopardy. Moreover, McKissick incorporates application 09/356,270 in its entirety; where application 10/918,753 by DeWeese et al. is a continuation of such incorporated reference; hereinafter referenced as DeWeese.

DeWeese discloses in paragraph [0093] also exhibited on fig 9; a real time communication displayed by the set top box application where a program 202 and a chat 204 related to the program are received and displayed simultaneously);

an authoring application (Paragraphs [0123] [0124] also exhibited on figure 17; the user can use a messaging application in order to create messages related to a television program, i.e. television application);

sending together said television content and said authoring data proximate in time at said headend system into a signal (Figure 11 and paragraph [0109] disclose a authoring data related to a program, i.e. Jeopardy. Moreover, DeWeese discloses in paragraph [0093] also exhibited on fig 9; a real time communication displayed by the set top box application where a program 202 and a chat 204 related to the program are received and displayed simultaneously);

enable the user to create new authored content, said new authored content including the authoring data associated with the television content as selected by said user (Each set top box 26 implements an interactive television program guide

application, which allows the user to send messages, where the program guide is an authoring application; paragraph [0064]; moreover, DeWeese discloses that the television facility distributes the program guide the set top boxes; paragraph [0060]).

However it is noted that McKissick fails to explicitly disclose multiplexing together said television content and a television application at said headend system into a multiplexed signal; communicating said multiplexed signal from said headend system to the receiver system such that said receiver system receives said television content and the television application, the television application being executable by the receiver system.

Nevertheless, in a similar field of endeavor Goodman discloses multiplexing together said television content and a television application at said headend system into a multiplexed signal (Col. 1 lines 21-32; col. 2 lines 18-51; col. 4 lines 43-60; also exhibited on figs 1 and 5 – multiplexer 14 at broadcast station 10);

communicating said multiplexed signal from said headend system to the receiver system such that said receiver system receives said television content and the television application (Col. 2 lines 18-51; col. 4 lines 43-60; fig 1 – satellite 18 broadcasts data to receiving station 20),

the television application being executable by the receiver system (Col. 2 lines 18-51; col. 4 lines 43-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application

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which may be needed by the receiver apparatus in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

However it is noted that McKissick and Goodman fail to explicitly disclose receiving an application from a second source system at a distribution system, and sending content and the application proximate in time from the distribution system.

Nevertheless, in a similar field of endeavor Fristoe discloses receiving an application from a second source system at a distribution system (Col. 6 lines 4-15 fig 1)

sending content and the application proximate in time from the distribution system (Col. 6 lines 4-15, col. 7 lines 27-29 also exhibited on figure 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Goodman by specifically providing the elements mentioned above, as taught by Fristoe, for the purpose of allowing the user to be able to receive applications on the fly, which may be required in order to access data requested by the user.

However it is noted that McKissick, Goodman and Fristoe fail to explicitly disclose multiplexing together said television content and said authoring data into a multiplexed signal; and communicating said multiplexed signal from said headend system to the receiver system such that said receiver system receives said television content and authoring data.

Nevertheless, in a similar field of endeavor Danker discloses multiplexing together said television content and said authoring data into a multiplexed signal and

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communicating said multiplexed signal from said headend system to the receiver system such that said receiver system receives said television content and authoring data (Paragraph [0014] also exhibited on figure 1 and 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick, Goodman and Fristoe by specifically providing the elements mentioned above, as taught by Danker, for the purpose of transmitting messages and television content in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 2**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses associating the authoring data with the television content (Paragraphs [0055] [0057] [0123] [0124] also exhibited on figures 1A and 17).

Regarding **claim 3**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses that the authoring data is contextual to the television content (The information transmitted from facility [12] may also include information on interactive message features such as TV contents or links related to the television programming, paragraph [0053]; moreover, DeWeese discloses in paragraph [0093] also exhibited on fig 9; a real time communication displayed by the

set top box application where a program 202 and a chat 204 related to the program are displayed simultaneously).

Regarding **claim 4**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses that the authoring application comprises a messaging application to enable the user to include the new authored content within a message (Each set top box 26 implements an interactive television program guide application, which allows the user to send messages, where the program guide is an authoring application; paragraph [0064]; moreover, DeWeese discloses that the television facility distributes the program guide the set top boxes; paragraph [0060]),

and to enable the user to communicate the message (The television message system allows users to send program guide information such as TV program listings, and program information as a message to other users, paragraph [0122]).

However it is noted that McKissick fails to explicitly disclose that the television application is executable by the receiver system.

Nevertheless, in a similar field of endeavor Goodman discloses that the television application is executable by the receiver system (Col. 2 lines 18-51; col. 4 lines 43-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application which may be needed by the receiver apparatus in a single transmission medium,



saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 5**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 2; moreover, McKissick discloses that the television content and the authoring data are associated using content identification information within the authoring data (Figure 9 and Paragraph [0109] disclose authoring data related to the a show, i.e. Jeopardy. DeWeese further discloses that the user may send messages to other users in a chat group setting depending on the programs being watched; paragraphs [0123] [0141] also exhibited on fig 9).

Regarding **claim 6**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses that the proximate multiplexed television content and authoring data comprises a broadcast (Paragraph [0055] also exhibited on figure 1).

However, McKissick fails to explicitly disclose that the multiplexed television content and television application comprises a broadcast.

Nevertheless, in a similar field of endeavor Goodman discloses that the multiplexed television content and television application comprises a broadcast (Col. 2 lines 18-51; col. 4 lines 43-60; also exhibited on fig 1 – broadcast signal18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements

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mentioned above, as taught by Goodman, for the purpose of transmitting a application to the receiver side in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

However it is noted that McKissick and Goodman fail to explicitly disclose sending content and an application proximate in time.

Nevertheless, in a similar field of endeavor Fristoe discloses sending content and an application proximate in time (Col. 6 lines 4-15, col. 7 lines 27-29 figure 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Goodman by specifically providing the elements mentioned above, as taught by Fristoe, for the purpose of allowing the user to be able to receive applications on the fly, which may be required in order to access data requested by the user.

Regarding **claim 7**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; however, McKissick fails to explicitly disclose that the source system includes a multiplexer to multiplex the television content and the authoring application.

Nevertheless, in a similar field of endeavor Goodman discloses that the source system includes a multiplexer to multiplex the television content and the authoring application (Col. 1 lines 21-32; col. 2 lines 18-51; col. 4 lines 43-60; also exhibited on figs 1 and 5 – multiplexer 14 at broadcast station 10);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application to the receiver side in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

However it is noted that McKissick and Goodman fail to explicitly disclose that the source system includes a multiplexer to multiplex the television content and the authoring data.

Nevertheless, in a similar field of endeavor Danker discloses that the source system includes a multiplexer to multiplex the television content and the authoring data (Paragraph [0014] also exhibited on figure 1 and 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Goodman by specifically providing the elements mentioned above, as taught by Danker, for the purpose of transmitting messages and television content in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 8**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses that said authoring data comprises text, images, and audio associated with said television content (Paragraph [0126]; the user can send text, video stills and audio messages related to a program).

Regarding **claim 9**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses presenting a user interface for display on the receiver system (Paragraph [0070]; graphical user interface), the user interface to receive the user identification of the portion of the authoring data to be included within the new authored content (Paragraph [0130]; programming related content or authoring data can be attached to the message [324], where for example the score of the game being watched can be send together with the message as shown in figure 18 with a "NFL score update" title).

However it is noted that McKissick fails to explicitly disclose that the television application is executable by the receiver system.

Nevertheless, in a similar field of endeavor Goodman discloses that the television application is executable by the receiver system (Col. 2 lines 18-51; col. 4 lines 43-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application which may be needed by the receiver apparatus in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 10**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 9; moreover, McKissick discloses the user interface presents the authoring data in association with the television content at the receiver system for selection by said user (Paragraph [0130]; programming related content or authoring data can be attached to the message [324], where for example the score of the game being watched can be send together with the message as shown in figure 18).

Regarding **claim 11**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses an authoring application on the receiver system which transmits the authored content as part of a message to a recipient (programming related content or authoring data can be attached to the message [324] being sent to another Television messaging system, where for example the score of the game being watched can be send together with the message as shown in figure 18, paragraph [0130]).

However it is noted that McKissick fails to explicitly disclose that the television application is executable by the receiver system.

Nevertheless, in a similar field of endeavor Goodman discloses that the television application is executable by the receiver system (Col. 2 lines 18-51; col. 4 lines 43-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application which may be needed by the receiver apparatus in a single transmission medium,

saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 12**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 11; moreover, McKissick discloses the authoring application to prompt the user to provide identification information for the recipient (in figure 18 the message received identifies who was the sender of the message, in this case the message was sent by "Adam").

However it is noted that McKissick fails to explicitly disclose that the television application is executable by the receiver system.

Nevertheless, in a similar field of endeavor Goodman discloses that the television application is executable by the receiver system (Col. 2 lines 18-51; col. 4 lines 43-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application which may be needed by the receiver apparatus in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 13**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses the receiver system is an interactive television system, and the authoring application is an interactive television

application (set top box [26] contains a processor to handle tasks associated with implementing an interactive television program guide application containing television message features, paragraph [0064]).

Regarding **claim 14**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses present a virtual keyboard for display on the receiver system, the virtual keyboard to facilitate alphanumeric input by said user (television screen keyboard [50] illustrated in fig 1C, paragraph [0071]).

However it is noted that McKissick fails to explicitly disclose that the television application is executable by the receiver system.

Nevertheless, in a similar field of endeavor Goodman discloses that the television application is executable by the receiver system (Col. 2 lines 18-51; col. 4 lines 43-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application which may be needed by the receiver apparatus in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 15**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses receive alphanumeric input from a user (Television screen keyboard [50] illustrated in fig 1C which allows the user to input a message, paragraph [0071]),

and to identify the alphanumeric input for inclusion along with authoring data within the authored content (Television messaging system display screen [421] allows the user to enter the user identity information, name [423] and address [427], paragraph [0094] also exhibited on fig 6B).

However it is noted that McKissick fails to explicitly disclose that the television application is executable by the receiver system.

Nevertheless, in a similar field of endeavor Goodman discloses that the television application is executable by the receiver system (Col. 2 lines 18-51; col. 4 lines 43-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application which may be needed by the receiver apparatus in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 16**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses the authoring application to receive a recipient identifier to identify a recipient of a message that includes the



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authored content (The set top box application may obtain the recipient's destination address information necessary to forward the message, paragraph [0087]).

However it is noted that McKissick fails to explicitly disclose that the television application is executable by the receiver system.

Nevertheless, in a similar field of endeavor Goodman discloses that the television application is executable by the receiver system (Col. 2 lines 18-51; col. 4 lines 43-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application which may be needed by the receiver apparatus in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 18**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 16; moreover, McKissick discloses that the message comprises an e-mail message, and the recipient identifier comprises an e-mail address (the destination address may be an e-mail address where the electronic messages may be sent, paragraph [0087]).

Regarding **claim 19**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 16; moreover, McKissick discloses that the message

comprises an instant message, and the recipient identifier comprises an instant message handle (Paragraph [0080]).

Regarding **claim 20**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 16; moreover, McKissick discloses communicating the message via a return path to the source system (Television distribution facility [16] distributes program guide data and other information, including messages, to the user television equipment [20] via communications paths [24], paragraph [0055]).

However it is noted that McKissick fails to explicitly disclose that the television application is executable by the receiver system.

Nevertheless, in a similar field of endeavor Goodman discloses that the television application is executable by the receiver system (Col. 2 lines 18-51; col. 4 lines 43-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application which may be needed by the receiver apparatus in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 21**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 20; moreover, McKissick discloses that the return path comprises a bi-directional communication channel (communication paths [24] are

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preferably bidirectional to support messaging and to have sufficient bandwidth to allow television content distribution, paragraph [0055]).

Regarding **claim 22**, McKissick, Goodman, Fristoe and Danker disclose the method as set forth in claim 1; moreover, McKissick discloses that the authoring data includes at least one of a group of information types including numeric, alphanumeric, picture, logo, icon, video, and audio data (The information transmitted from facility [12] may also include information on interactive message features such as TV contents, surveys, evaluations, promotions or links related to the television programming, paragraph [0053]; where the television message system displays an alphanumeric promotion related to the television programming where the viewer can participate, paragraph [0107] also exhibited on fig 17).

Regarding **claim 23**, McKissick discloses a multi-media system with user authoring features (abstract), said system comprising including:

a first source system to distribute television content (Main facility [12] and Television distribution facility [16] distribute program guide data and other information to television equipment [20] via communication path[24], paragraph [0055] also exhibited on fig 1A. Moreover, since each television equipment 20 can act as a television content source by sending content related messages to other television equipments 20);

a second source system to generate authoring data (Paragraph [0127] fig 18; each television equipment 20 can act as an authoring data source by sending content related messages to other television equipments 20);

an authoring application (Paragraphs [0123] [0124] also exhibited on figure 17; the user can use a messaging application in order to create messages, i.e. television application);

said authoring data comprising media information related to said television content (McKissick incorporates application 09/356,270 in its entirety; where application 10/918,753 by DeWeese et al. is a continuation of such incorporated reference; hereinafter referenced as DeWeese. DeWeese discloses in paragraph [0093] also exhibited on fig 9; a real time communication displayed by the set top box application where a program 202 and a chat 204 related to the program are received and displayed simultaneously);

a broadcast system to broadcast said proximate transmitted television content and authoring data to a plurality of receiver systems (Paragraphs [0013] [0052] fig 1A);

and a receiver system to receive the television content and authoring data from the broadcast system (Paragraph [0087]; set top box),

the authoring application allowing a user to create new authored content with the authoring data (Paragraph [0122] and [0126]; the television message system allows users to send program guide information such as TV program listings, program schedules, and program information as a message to other users using their email address or as an instant message).

However it is noted that McKissick fails to explicitly disclose a multiplexer to multiplex together said television content, and television application; and to broadcast said multiplexed television content and television application; and a receiver system to receive the multiplexed television content, and television application from the broadcast system.

Nevertheless, in a similar field of endeavor Goodman discloses a multiplexer to multiplex together said television content, and television application; and to broadcast said multiplexed television content and television application; and a receiver system to receive the multiplexed television content, and television application from the broadcast system (Col. 1 lines 21-32; col. 2 lines 18-51; col. 4 lines 43-60; also exhibited on figs 1 and 5 – multiplexer 14 at broadcast station 10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick by specifically providing the elements mentioned above, as taught by Goodman, for the purpose of transmitting an application to the receiver side in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

However it is noted that McKissick and Goodman fail to explicitly disclose sending content and the application proximate in time from the distribution system and a receiver system to receive the proximate content and the application.

Nevertheless, in a similar field of endeavor Fristoe discloses sending content and the application proximate in time from the distribution system and a receiver system to

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receive the proximate content and the application (Col. 6 lines 4-15, col. 7 lines 27-29 also exhibited on figure 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick and Goodman by specifically providing the elements mentioned above, as taught by Fristoe, for the purpose of allowing the user to be able to receive applications on the fly, which may be required in order to access data requested by the user.

However it is noted that McKissick, Goodman and Fristoe fail to explicitly disclose multiplexing together said television content and said authoring data and broadcast said multiplexed television content and authoring data.

Nevertheless, in a similar field of endeavor Danker discloses multiplexing together said television content and said authoring data and broadcast said multiplexed television content and authoring data (Paragraph [0014] figures 1 and 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick, Goodman and Fristoe by specifically providing the elements mentioned above, as taught by Danker, for the purpose of transmitting messages and television content in a single transmission medium, saving the source company the need to include different transmission paths for different data which saves them money.

Regarding **claim 24**, McKissick, Goodman, Fristoe and Danker disclose all the limitations of claim 24; therefore, claim 24 is rejected for the same reasons as in claim 5.

Regarding **claim 25**, McKissick, Goodman, Fristoe and Danker disclose the system as set forth in claim 23; moreover, McKissick discloses that the first source system is the same as the second source system (Paragraph [0127] fig 18; each television equipment 20 can act as a television content source by sending content related messages to other television equipments 20).

Regarding **claim 26**, McKissick, Goodman, Fristoe and Danker disclose the system as set forth in claim 23; moreover, McKissick discloses that the authoring application comprises a messaging application (Paragraph [0080]).

Regarding **claim 27**, McKissick, Goodman, Fristoe and Danker disclose the system as set forth in claim 23; moreover, McKissick that the television content is associated to the authoring data using timecodes (DeWeese discloses on paragraphs [0099] and [0100] that the messaging system may be limited to the time period that a particular program is being broadcasted).

Regarding **claim 28**, McKissick, Goodman, Fristoe and Danker disclose the system as set forth in claim 23; moreover, McKissick discloses that the receiver system

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is to communicate the new authored content to a messaging system for inclusion within the message (Paragraphs [0122] and [0126]).

Regarding **claims 29, 30 and 31**, McKissick, Goodman, Fristoe and Danker disclose all the limitations of claims 29, 30 and 31; therefore, claims 29, 30 and 31 are rejected for the same reasons as in claims 17, 18 and 19, respectively.

Regarding **claim 41**, McKissick, Goodman, Fristoe and Danker disclose all the limitations of claim 41; therefore, claim 41 is rejected for the same reasons as in claim 1.

4. **Claims 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over McKissick in view of Goodman further in view of Danker further in view of Angel et al (Pub No US 2004/0025192). Hereinafter referenced as Angel.

Regarding **claim 17**, McKissick, Goodman, Fristoe and Danker disclose the method of claim 16; however, it is noted that McKissick, Goodman, Fristoe and Danker fail to explicitly disclose that the message comprises a SMS message, and the recipient identifier comprises a telephone number.



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Nevertheless, in a similar field of endeavor Angel discloses that the message comprises a SMS message, and the recipient identifier comprises a telephone number (SMS messages can be send from TV set top box [12] to a cellular phone [14], paragraph [0032] and [0033] also exhibited on fig 1, it is well inherent that a telephone number will be used in order to establish connectivity between the phone and the television set).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McKissick, Goodman, Fristoe and Danker by specifically providing such elements, as taught by Angel, for the purpose of allowing the users to send messages to not only other television sets but to telephone systems as well, which provides more flexibility since people are not watching television at all times, therefore this is a good alternative.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUNIOR O. MENDOZA whose telephone number is (571)270-3573. The examiner can normally be reached on Monday - Friday 9am - 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571)272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Junior O Mendoza  
Examiner  
Art Unit 2423

/J. O. M./  
February 11, 2009

/Andrew Y Koenig/  
Supervisory Patent Examiner, Art Unit 2423